

VIRGINIA DEPARTMENT OF EDUCATION
Division of Special Education and Student Services
Office of Dispute Resolution & Administrative Services

**ANNUAL REPORT
OF THE
DISPUTE RESOLUTION SYSTEMS
AND
ADMINISTRATIVE SERVICES**

- Due Process Hearing System
- Mediation Services
- Complaints Resolution System
- Administrative Services

Reporting Period: July 1, 2005– June 30, 2006

Reporting Date: August 1, 2006

This review serves to assist the Virginia Department of Education (VDOE) in:

- ensuring compliance with the federal and state mandates governing the dispute resolution systems;
- identifying future training activities, particularly for hearing officers and mediators;
- identifying and addressing systemic issues impacting local school divisions; and,
- assessing the strengths and challenges of each system.

This analysis serves as a reporting mechanism to VDOE's management team responsible for the development of VDOE's State Performance Plan to the U.S. Department of Education's Office of Special Education Programs and for other data collection reports. It also provides information on this office's systems to VDOE staff and consumer groups listed at the end of this report.

Questions regarding the content of this report may be directed to the Office of Dispute Resolution and Administrative Services at (804) 225-2013. Information regarding the office's services is available on the web at:

<http://www.doe.virginia.gov/VDOE/dueproc>

PART I DUE PROCESS HEARING SYSTEM

- Baseline Data
- Hearing Officer Performance
 - ✓ Management of Hearings
 - ✓ Decisions
 - ✓ Managing the 45-Day Timeline
- Recertification of Hearing Officers
- Training of Hearing Officers
- Implementation Plans
- Follow-up System for Implementation Plans
- ODR/AS Initiatives

A. BASELINE DATA

☐ Number of Hearing Requests

	2005-06	2004 – 2005	2003-2004
Number of requests	98	107	127
Number dismissed/withdrawn ¹	68	68	87
Number of decisions rendered after full hearing ²	13	28	40
Number pending as of 6-30-06	17	11	0

☐ Number of Hearing Requests – 5-Year Period

Year	2005-2006	2004-2005	2003-2004	2002-2003	2001-2002
Total Requests	98	107	127	100	120

¹ Cases closed without a hearing due to a mediation, or settlement agreement, or request for withdrawal.

² Redacted decisions are posted on the web: <http://www.doe.virginia.gov/VDOE/dueproc>

☐ **Number of Decisions**

	Reporting Periods		
	2005-06	2004 – 2005	2003 – 2004*
Number of Decisions	13	28	34
Initiating Party:			
Parent	10	26	29
LEA	3	2	5
Prevailing Party:			
Parent	0	2	6
LEA	11	25	25
Split	2	1	3

*From the 2003-2004 Annual Report

☐ **Additional Case Information**

During this reporting period, 12 cases, initiated in 2003-04, were closed.

Disposition of these 12 cases

Issues	Prevailing Party	
	LEA	Parent
IEP: 5		
✓ placement (3)	2	1
✓ services (2)	0	2
Eligibility: 3		
✓ classification (3)	3	0
Others: 4		
✓ ESY (1)	1	2
✓ discipline (1)	1	0

☐ **Issues and Disposition**

	2005 – 2006			
		Prevailing Party		
Issues / Sub-issues	# Issues	LEA	Parent	Split
Total case issues	63			
IEP	30			
Placement	15	13	1	1
Services	6	6	0	0
Development	7	7	0	0
Compensatory services	1	1	0	0
Notice	1	1	0	0
Due Process	5			
Procedural violations	4	4	0	0
Settlement agreement	1	0	1	0
Appropriate stay put	0	0	0	0
Burden of proof	0	0	0	0
Statute of limitation	0	0	0	0
Discipline	12	12	0	0
Eligibility	4			
Classification	1	1	0	0
Evaluations	3	3	0	0
Other	12			
Child Find	0	0	0	0
ESY	4	2	2	0
Emotional distress	0	0	0	0
IEE	3	3	0	0
Violation of 504	3	3	0	0
Complaints	1	1	0	0
Age of Majority	1	0	1	0

Issue	2005 - 2006			2004 - 2005			2003 - 2004		
	Total	LEA	P	Total	LEA	P	Total	LEA	P
IEP				30	29	1	33	31	2
Due Process				5	4	1	9	5	4
Discipline				12	12	0	7	7	0
Eligibility				4	4	0	8	6	2
Other				12	9	3	4	3	1
Child Find				0	0	0	0	0	0
ESY				4	2	2	3	2	1
Emotional Distress				0	0	0	1	1	0
IEE				3	3	0	0	0	0
504				3	3	0	0	0	0
Complaints				1	1	0	0	0	0
Age of Majority				1	0	1	0	0	0
Totals				63	58	5	61	52	9

☐ **Number of Hearing Officers**

☐ **Number of School Divisions with hearing requests**

	Reporting Periods		
	2005 – 2006	2004 – 2005	2003 - 2004
Number of Hearing Officers	35	38	41
✓ assigned to hearings ³	33	34	40
✓ assigned more than once	22	23	36
Number of school divisions involved in hearing requests	40	38 ⁴	37 ⁵

³ Two of the hearing officers serve as Complaint Appeal Reviewers for the Complaint Appeal System. They are required to complete the same training requirements as the other hearing officers; however, while serving as a complaint appeal reviewer, they are not appointed to due process hearing cases.

⁴Four cases involved VDOE as a co-party.

⁵One case involved VDOE as a co-party.

□ Trends

- Requests for due process hearings decreased by 20 requests over last year's reporting period. The requests represent approximately 10 less cases than the 5-year average. No factor can be identified as contributing to the decreased number of requests in comparison to last year.
- One (1) additional school division was involved in hearing requests during this reporting period. No particular school division or region experienced an influx of cases.
- The data from this current reporting period is consistent with the total year data for 2003-04, in identifying three repetitive themes:⁶
 - ✓ Parents are the most frequent initiating party.
 - ✓ LEAs are more often the prevailing party.
 - ✓ Issues focus primarily on: IEP placement and discipline.
- The number of hearing officers decreased by 3 persons this reporting period. This number represents a reduction of 89 hearing officers since the 2001-02 school year. The reduction in the number of hearing officers and their increased experience at the pre-hearing level are positive outcomes of the increased training requirements. Hearing officers are receiving more assignments. Since they hear matters more frequently, even if only at the pre-hearing level, they sharpen their skills, and utilize their training more frequently.

B. HEARING OFFICER PERFORMANCE – MANAGEMENT OF THE HEARING

Evaluations are sent to both parties following the issuance of each decision, whether or not the case went to full hearing or was dismissed because of a mediation agreement, settlement agreement or request for withdrawal.

The director of the Office of Dispute Resolution and Administrative Services (ODR/AS) reviews each evaluation response. The coordinator of due process services checks any concerns against the case record and may call the party(ies) for clarification. The director or coordinator contacts the hearing officer to review issues of concern and as necessary, issues a written cautionary notice to the hearing officer regarding any identified concerns. Additionally, as necessary, the director or coordinator may meet with the hearing officer to review the application of the regulations.

⁶ 2003-2004 Annual Report for Special Education, Office of Dispute Resolution and Administrative Services.

	Reporting Periods		
	2005-2006	2004 – 2005 ⁷	2003 – 2004 ⁸
Number of evaluations sent	69	300	389
Number of responses	20	69	112

☐ **Trends:**

- Eighty-nine (89) fewer evaluations were sent during the current reporting period as compared with the 2003-04 reporting period.
- The responses indicated that the hearing officers remain strongly consistent in the areas of:
 - ✓ Scheduling agreeable dates, times, and locations;
 - ✓ Maintaining a fair and impartial atmosphere;
 - ✓ Being knowledgeable of the requirements of both federal and state laws and regulations; and
 - ✓ Making prompt contact with both the parent and the LEA.
- Areas showing significant improvement from the last reporting period are:
 - ✓ Informing the parties of the availability of mediation;
 - ✓ Issuing the decision in the required timelines; and
 - ✓ Helping ensure that witnesses needed for the hearing were present.
- Areas of concern are raised with the individual hearing officer and as necessary, notice is sent to the individual regarding any need for improvement. During this reporting period, ODR/AS staff met with 2 hearing officers to further review area(s) of concern and develop performance measures to assist the hearing officer in meeting VDOE's expectations.

⁷ The reported numbers are not related to the number of hearing requests for the reporting period. Rather, they relate to the decisions received by ODR/AS for the reporting period, which includes those cases carried over from the previous reporting period.

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C. HEARING OFFICER PERFORMANCE - DECISION

ODR/AS' director and coordinator of due process services review each hearing officer's decision.⁹ Additionally, the coordinator reviews and monitors all pre-hearing reports, orders, and correspondences. Either the director or coordinator contacts the hearing officers if errors are identified relative to:

- apparent bias to either party
- correct use of citations
- readability
- correct appeal information
- other errors, such as incorrect names or conflicting data

ODR/AS may not review the decision for errors of law that are reserved for appellate review. As necessary, the director or coordinator contacts the hearing officer with any concerns and, in certain instances, requires the hearing officer to issue an error correction or a statement of clarification. These procedures are consistent with VDOE's management responsibilities for the due process system. (8 VAC 20-80-76 Q.2)

☐ Trends:

- Decisions and pre-hearing reports continue to be consistent in:
 - ✓ writing in a manner both the LEA and parents can understand;
 - ✓ advising both parties of the option of mediation;
 - ✓ clearly identifying what was being ordered as a result of the decision; and,
 - ✓ including references to statutes or regulations that support the conclusions reached by the hearing officer.
- Fewer hearing officers erred this reporting period relative to:
 - ✓ advising the parties of their appeal rights; or
 - ✓ documenting that extensions of timelines were in the best interests of the child.

In those instances of error, ODR/AS staff reviewed the necessary requirements with the hearing officer. In the cases involving inaccurate identification of appeal rights, the ODR/AS staff required that the hearing officer reissue the decision.

⁹ Redacted decisions are posted on the web: <http://www.doe.virginia.gov/VDOE/dueproc>

D. HEARING OFFICER – TRAINING

In addition to the training requirements of the Virginia Supreme Court, the VDOE is responsible for training hearing officers on the legal aspects of special education (laws, regulations, and case law updates) and management of special education hearings. For the 2004-05 school year, hearing officers attended a two-day training event, April 2005, which focused on:

- ✓ IDEA 2004 – new mandates
- ✓ case law update
- ✓ IDEA 2004 requirements for hearing officers
- ✓ understanding Developmental Delay – testing/diagnostic assessment issues; implications for the classroom; medical/legal/educational/parental issues

Since 2001, the trainings have included aspects of specific disabilities. These one-day sessions have focused on: understanding testing and assessment as applied to children with disabilities; the application of evaluations to eligibility and IEP team decisions; assessments for related services; parental issues; and methodologies. To date, specific disability focus areas include: autism, learning disabilities, ADHD/ADD, and for this year, Developmental Delay.

During this reporting period, each hearing officer completed a self-study program. The program required a minimum of 30 points of training activities, identified by VDOE, and which were to be completed by June 30, 2005. Each hearing officer's program was reviewed and approved by ODR/AS' director and included an evaluation component for each self-study activity.

VDOE established six competencies for special education hearing officers in 2001 relative to VDOE's increased training requirements.¹⁰ The self-assessment and self-study components are part of Competency VI.

E. MANAGING THE 45-DAY MANDATED TIMELINE

Hearing officers are mandated to issue their decisions within 45 calendar days after the local school division receives the request for the hearing. The hearing officer may grant an extension only when it serves the best interest of the child. (8 VAC 20-80 76.K of the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*)

¹⁰*Internal Operational Procedures for Implementing the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, Relative to the Due Process Hearing System*, March 2001.

VDOE identified the 45-day timeline as one of its target areas in its Continuous Improvement Monitoring Process Reports to OSEP (2002 and 2003) and Annual Performance Report, 2004. VDOE developed and implemented a process that includes intensive monitoring and tracking of these timelines, training hearing officers on this subject, and issuance of notices to hearing officers who fail to document extensions. VDOE also assured Virginia's Code Commission that these efforts would address the concerns raised during the public hearings of the Administrative Law Advisory Committee. (VDOE Report to the Code Commission and ALAC, November 1, 2002)

	2005 – 2006	2004 – 2005	2003 - 2004
Total number of due process requests	98	107	127
Number of cases exceeding the 45-day timeline		31	46

☐ **Trends:**

- The data is evidencing a trend of cases not requiring extensions to complete the decision from 2001-2002:
 - ✓ 2001-02: 60 out of 120 hearing requests involved extensions.
 - ✓ 2002-03: 46 out of 100 hearing requests involved extensions.
 - ✓ 2003-04: 46 out of 127 hearing requests involved extensions.
 - ✓ 2004-05: 31 out of 107 hearing requests involved extensions.
- Number of days over the 45-day timeline

	Reporting Periods		
	2005 – 2006	2004 – 2005	2003 - 2004
Total Cases		31	46
1 – 30 days		17	23
31 – 90 days		11	17
91 – 120 days		2	4
121 +		1	2

- The data indicates that:
 - ✓ approximately one-third or 35% of the cases involve extensions.
 - ✓ the number decreased from 2003-2004.
 - ✓ the majority of decisions are being rendered within the first extension period.
- The hearing officers are doing significantly better in documenting extensions during this reporting period. The coordinator of due process services employs an electronic tracking log to monitor all timelines and extensions to ensure that the extensions comport with regulatory requirements. ODR/AS addresses with the individual hearing officer errors in meeting the regulatory requirements. As necessary, ODR/AS requires the hearing officer to reissue proper correspondence regarding extensions and may require the hearing officer to meet with ODR/AS staff to review the regulations and complete performance measures to ensure compliance with the requirements.

☐ **Party requesting the extension:**

	Reporting Periods		
	2005 – 2006	2004 – 2005	2003 - 2004
Parent		24	15
LEA		4	3
Both		12	18
Hearing Officer		1	9
Child		0	1

This data is consistent with the previous reporting period, except there is a decreased number this reporting period of hearing officers giving extensions, although neither party requested it. Virginia's special education regulations require that only the parties may request an extension. ODR/AS continues to follow up with the hearing officers where extensions are not properly granted. During this reporting period one complaint investigation found that a hearing officer had not documented certain extensions sufficiently and the hearing officer is no longer active. ODR/AS continues to encourage careful consideration of the timeline through a pre-hearing/hearing checklist for hearing officers to use once assigned to a case.

☐ The reasons for the extension are consistent with previous years:

- ✓ accommodate availability of experts;
- ✓ parents obtaining counsel;

- ✓ scheduling conflicts¹¹; and
- ✓ inclement weather.

F. IMPLEMENTATION PLANS

Following the completion of each due process hearing, whether or not it goes to full hearing or is settled or dismissed, the school division is required to file with ODR/AS an Implementation Plan that reports how the school division will implement the hearing officer's decision. The LEA has 45 calendar days to submit the implementation plan following the hearing officer's decision. The coordinator of due process services reviews and approves all implementation plans.

	Reporting Periods		
	2005 – 2006	2004 – 2005	2003 - 2004
Number of plans required	98	107	127
Received		92	92
Approved		87	81
Pending review		5	11 [0***]
Pending receipt/review		15*	35** [0***]
Total pending closure		20	46 [0***]

*As of 6/30/05 **As of 6/30/04 ***As of 6/30/05 these items were no longer pending and are approved

G. FOLLOW-UP SYSTEM FOR IMPLEMENTATION PLANS

VDOE identified as a target area in its Continuous Improvement Monitoring Process (CIMP) follow-up with school divisions to ensure implementation of the plans submitted by LEAs to comport with the hearing officers' decisions and approved by VDOE. This meant developing a system to review all implementation plans, to require documentation, and/or to initiate an on-site review. In VDOE's CIMP reports to OSEP in June and November 2003, and 2004 Annual Performance Report, ODR/AS documented its system for meeting this responsibility, which was implemented on July 1, 2003. ODR/AS began with the 2002-03 Implementation Plans.

¹¹ Hearing officers have been reminded that Virginia's regulations governing special education do not permit extensions to be granted to accommodate the scheduling conflicts of counsel.

	Reporting Periods		
	2005 – 2006	2004 – 2005	2003 – 2004
Number of due process cases	98	107	127
Number of plans requested and received		92	92
Number of plans pending receipt		15	35 [0*]
Follow-up Implementation Plans reviewed		87	96
✓ not requiring additional action		50	55
✓ requiring follow-up activity		37	41
✓ additional documentation received/approved		34	3
IPs pending review		5	31 [0*]

*As of 6/30/05

H. INITIATIVES

- ODR/AS is developing a guidance document for hearing officers on the subject of the 45-day timeline. This project was identified in VDOE's 2003 CIMP Report to OSEP; in VDOE's 2002 report to Virginia's Code Commission; and, in VDOE's 2004 Annual Performance Report.
 - The office's Work Plan includes the following components:
 - ✓ reviewing information from other SEAs regarding policies, procedures, and practices;¹²
 - ✓ reviewing three years of data to determine what patterns may exist relative to such areas as reasons for the extensions and hearing officers granting the extensions;
 - ✓ reviewing applicable case law on this subject; and developing the guidance document.

Anticipated completion date: December 2006

¹² The Mid-South Regional Resource Center was instrumental in obtaining this information from other SEAs for VDOE.

- ☐ The coordinator of due process services developed a checklist for hearing officers as a reminder of the regulatory responsibilities during the hearing process. It includes a provision on how to calculate the 45-day timeline.
- ☐ In VDOE's 2004 Annual Performance Report to OSEP, VDOE reported a project target and activity that focuses on the development of a guidance document, Alternative Dispute Resolution Guidance Document. This project was initiated during this reporting period. VDOE also developed this project in response to the concerns raised during the public hearing held by the Virginia Code Commission's Administrative Law Advisory Committee. The concerns related to the parents' need for understanding the legal intricacies of the process when representing themselves in due process hearings. Without this understanding, parents reported that they remained at a disadvantage when the school board attorney represents the LEA's interests, thus eliminating a level playing field. The document will also provide information and guidance on conflict resolution, such as mediation and the complaints system.

Anticipated completion date for distribution: December 2006

- ☐ In response to the above referenced public hearing, ODR/AS developed and posted on its web site, a list of legal and advocacy services for parents and students with disabilities, with a brief summary description of each of the services. <http://www.doe.virginia.gov/VDOE/dueproc>
- ☐ Based on the IDEA 2004 mandate for Resolution Sessions, ODR/AS will include in its tracking system a data base for resolution sessions held, disputes resolved through resolution agreements, due process requests withdrawn after resolution sessions, and disputes resolved after full adjudication.

PART II MEDIATION SERVICES

Φ Baseline Data

Φ Evaluations

- ✓ System
- ✓ Consumer
- ✓ Mediators

Φ Training

Mediation services are available to parents and school administrators to help them negotiate issues that divide them regarding the identification, testing or provision of services to school age students who are thought to need help in order to have access to or to benefit from the curriculum. The sooner mediation is sought, the more likely it is to be successful. It helps people to a successful outcome in 74-78% of the times when it is sought. Changing the format and the dynamics of a meeting is likely to change its outcome. Mediation is a good option to bear in mind when the settlement period is invoked by a request for hearing. There is material descriptive of the mediation process on our website at [http:// www.doe.virginia.gov/VDOE/dueproc](http://www.doe.virginia.gov/VDOE/dueproc) > mediation.

A. BASELINE DATA

VDOE's Special Education Mediation Services joined the ODR/AS staff on July 1, 2003. This unit includes: 7 mediators; ODR/AS director, coordinator of mediation services, and administrative assistant. The current system for maintaining the baseline data was developed and implemented during the 2003-2004 reporting period.

☐ **Disposition of Requests**

	Reporting Periods		
	2005 – 2006	2004 – 2005	2003-2004
Number of requests		133	135
• resolved		79	90
• partially resolved		5	6
• unresolved		27	25
• withdrawn		21	14
• pending		1	0

*As of 6/30/04

☐ **Requests Involving Due Process**

	Reporting Periods		
	2005 – 2006	2004 – 2005	2003 - 2004
Number of requests		133	135
Number involved in DP		29	41
✓ resolved		17	25
✓ partially resolved		0	2
✓ unresolved		7	11
✓ withdrawn		5	3
✓ pending		0	0

☐ **Three-Year Review of Mediation Requests**

	2005-2006	2004-2005	2003-2004
Mediations requested		133	135

☐ **Issues**

	Reporting Periods		
	2005 – 2006	2004 – 2005	2003-2004
Total number of issues		195	243
IEP		131	163
✓ sufficiency of services		59	66
✓ type of services		38	40
✓ placement		30	46
✓ goals		4	11
Staffing		31	24
Evaluation & Disability		17	24
Financial responsibility*		11	16
Discipline		3	11
Transportation		1	5
FAPE		1	0

* Involves disputes over financial responsibility for costs associated with a program that the parent has selected.

☐ **Requests by Region:**

Regions	2005 - 2006	2004 - 2005	2003 – 2004
Region I		20	12
Region II		16	24
Region III		17	12
Region IV		53	61
Region V		14	12
Region VI		7	8
Region VII		5	3
Region VIII		1	3

Trends

- After a 38% rise in requests for mediation the previous year, the number of requests for mediation held fairly stable for this past year. The coordinator continues to speak to all available audiences of administrators and parents to encourage their understanding of the accessibility and value of the program.
- The number of mediation requests involving due process hearings decreased this reporting period despite training and outreach activities.
- Parties considering hearing would do well to consider mediation in order to provide a fresh format and some fresh thinking in their settlement discussions.
- There has been a huge increase in the number of cases in which autism is a pivotal consideration. There has been a corresponding decrease in the age at which student's services have come before a mediator for assistance in negotiation.
- Some mediators report that schools understand and make better use of mediation and come to the table better prepared to cooperatively participate in negotiations.

B. Evaluations

Consumer Evaluations

People who are parties to mediation are encouraged to complete a written evaluation to account for their experiences. We distributed 266 this year. The coordinator reviews them for issues he may address and calls for more information if necessary. People are encouraged at any time to call or write the coordinator with their experiences or approach him at a meeting.

Here are some sample comments from participants:

Parent: "Mrs. * did a great job. She helped understand things, clarified and made sure we stayed focused. I appreciated her."

Administrator: "The mediation process allowed both parties to interact in a cooperative manner. The fact that the school division representatives were not central to the dispute lessened the parents' emotional responses."

Parent: "Mrs. * was very professional during the entire process. I was very appreciative of her level of communication and contact to keep me informed about dates, time and instructions about the process."

Administrator: "This mediation session went very smoothly. * takes time to listen to both sides and we were easily able to reach an agreement."

Parent: “This is the second time we go through mediation and SSEMS seem(sic) to find the common grounds for me and the school to agree on. Thanks to Mr. * this time.”

Administrator: “* was highly effective and professional and facilitated very efficiently in a highly charged discussion. Thanks!”

Administrator: “It was unfortunate that a successful decision could not be made in mediation, but the mediator did a good job to assist in the process.”

Evaluation of Mediators

Our evaluations extend beyond these informal reports to observations and formal assessments in writing, which are discussed with the mediators. Our objective in assessing mediators is to constantly point out to them the growing edges of their practice, and to provide the possibility of continuing growth and improvement in their understanding and practice of assisting people in negotiating conflict.

C. TRAINING

Mediators are convened for about 32 hours each year for exposure to issues emerging in the field, in their practices and in the law. This year included their participation with the hearing officers in a review of the IDEA 2004 mandates, and the disability area of Developmentally Delayed.

PART III COMPLAINTS SYSTEM

- Baseline Data
- Implementation System for CAPS
- ODR/AS Initiatives

A. BASELINE DATA

☐ Number of Complaints

	Reporting Periods		
	2005 – 2006	2004 – 2005	2003 - 2004
Number of Complaints	132	167	169
• resolved through mediation or otherwise settlement agreement	17	18	23
• withdrawn	16	22	23
• dismissed	1	5	4
• findings/decisions issued	75	77	84
• pending as of 6/30/06	23***	45**	35*
Number exceeding the 60-day timeline without the mandated extension	0	1	1

*As of 6/30/04

** As of 6/30/05

*** As of 6/30/06, two cases are being held in abeyance, pending due process decision

☐ Five-Year Review of Complaints Received

Fiscal Year	2005-2006	2004-2005	2003-2004	2002-2003	2001-2002
Total Number of Complaints	132	167	169	173	193

☐ **Findings/Decisions**

	Reporting Periods		
	2005 – 2006	2004 – 2005	2003 - 2004
Number of decisions issued	75*	77	84
Number of issues	187	209	227
Number of issues in compliance	138	150	120
Number of issues in noncompliance	49	59	107

*As of 6/30/06

☐ **Decisions Appealed**

	Reporting Periods		
	2005 – 2006	2004 – 2005	2003 - 2004
Number of decisions issued	75	77	84
• appealed	32**	26*	33
• findings affirmed	25	21	21
• findings reversed	0	0	2
• findings remanded	1	2	1
• findings split	3	3	9
• affirmed issues	17	10	7
• reversed issues	8	2	4
• remanded issues	0	3	3
• dismissed issues	0	0	0
• Appeal decisions pending as of 6/30/06	3		

*6 appeals were based on findings issued in 2003/2004.

**15 appeals were based on findings issued in 2004/2005.

☐ **Issues**

Issues/Sub-issues	Reporting Period		
	2005 – 2006		
	#Issues	C*	NC*
IEP	71		
Implementation	56	38	18
Consent	0	0	0
content development	3	3	0
Development, Review & Revision	12	10	2
IEP Meetings	24		
team composition	9	8	1
revisions without meeting	0	0	0
parental participation	6	6	0
Provision of parent copy	0	0	0
parent request for meeting	1	0	1
meeting procedures	0	0	0
progress reports	0	0	0
copy of IEP to necessary staff	2	1	1
Notice	6	2	4
Timelines	0	0	0
FAPE	10		
disability harassment	1	1	0
provision of FAPE	3	3	0
Loss of instruction	0	0	0
ESY	1	1	0
Transportation	1	1	0
Safety	4	4	0
Age appropriate	0	0	0
Extracurricular Activities	0	0	0
Procedural Safeguards	24		
IEE	3	3	0
informed consent	5	4	1
implementation of HO's order	0	0	0
parental participation	3	3	0
written prior notice	9	6	3
Proc. Safeguards doc.	4	4	0
LRE	5	4	1
Discipline	6		

Issues/Sub-issues	Reporting Period		
	2005 – 2006		
	#Issues	C*	NC*
disciplinary procedures	5	5	0
MDR	1	0	1
Eligibility/Evaluation/ Reevaluation	25		
eligibility procedures	12	9	3
timelines	0	0	0
Evaluation/re-evaluation procedures	12	10	2
Mandatory medication prohibition	1	1	0
Child Find	1		
procedures	1	1	0
Program Standards	2		
qualified personnel	2	2	0
Staff (caseloads)	0	0	0
Records	5		
access	3	1	2
management	0	0	0
confidentiality	1	0	1
amendment	1	1	0
consent to release	0	0	0
Other	14		
information provided in native language	0	0	0
local advisory committee procedures	2	2	0
insurance funds	0	0	0
Complaint procedures	2	0	2
Due Process procedures	4	2	2
change in placement	3	2	1
Service Plan Development & Implementation	1	0	1
Transfer Student Procedures	2	0	2
TOTALS	187	138	49

*denotes that the LEA was found to be in compliance “C” or non-compliance “NC”.

	Reporting Period 2005-2006			Reporting Period 2004-2005			Reporting Period 2003-2004		
Issue Category	Total Issues	C	NC	Total Issues	C	NC	Total Issues	C	NC
IEP	71	51	20	75	43	32	76	36	40
IEP Meetings	24	17	7	28	22	6	66	34	32
FAPE	10	10	0	16	15	1	16	13	3
Procedural Safeguards	24	20	4	22	21	1	19	9	10
LRE	5	4	1	4	3	1	5	5	0
Discipline	6	5	1	9	6	3	12	6	6
Eligibility/Evaluation/ Reevaluation	25	20	5	21	16	5	17	9	8
Child Find	1	1	0	4	3	1	2	2	0
Program Standards	2	2	0	7	6	1	0	0	0
Records	5	2	3	8	6	2	11	5	6
Other	14	6	8	15	9	6	3	1	2
TOTALS	187	138	49	209	150	59	227	120	107

☐ Trends

- The number of complaints for this reporting period is approximately 34 less than the average of the total number of cases over the last 5 years. The number of complaints is 35 less than last year.
- The number of complaint issues decreased by 22 issues. The number of issues is significant, as the regulations require the SEA to address each issue with findings.
- The number of decisions that were appealed increased since the last reporting period.
- Areas of highest non-compliance violations:
 - ✓ IEP implementation
 - ✓ IEP meeting notice
 - ✓ Procedural Safeguards - written prior notice
 - ✓ Eligibility procedures

- Areas that showed slight improvement in compliance:
 - ✓ Evaluation/Re-evaluation procedures
 - ✓ Disciplinary procedures
 - ✓ Eligibility procedures
- Data reflects that new requirements under the Individuals with Disabilities Education Improvement Act did not cause a significant increase in complaint totals or noncompliance violations.

B. IMPLEMENTATION SYSTEM FOR CORRECTIVE ACTION PLANS

VDOE identified as one of its target areas in its Continuous Improvement Monitoring Process and Annual Performance Report to follow up with school divisions to ensure timely correction of non-compliances as required by complaint decisions. This meant developing a system to review all CAPs that had been approved by ODR/AS, and as necessary, require documentation and/or initiate an on-site review to ensure complete implementation. In VDOE's CIMP reports to OSEP in June and November 2003, and 2004 Annual Performance Report, ODR/AS evidenced its system for meeting this responsibility, which was developed and implemented on July 1, 2003. ODR/AS began with the 2001-02 school year CAPs.

Fiscal Year	Number of Decisions Issued	Pending Decision	CAPs Issued	Reviewed for Full Implementation and Closed	Pending Review
2005-06	75	21	28*	0	28*
2004-05	119	0	55	48	7**
2003-04	113	0	52	58	0
2002-03	128	0	66	66	0
2001-02	108	0	98	98	0

* As of 06/30/06

**anticipated completion date: 12/30/06

C. INITIATIVES

- As noted in the previous due process and mediation sections of this report, ODR/AS is developing a guidance document on Alternative Dispute Resolution for parents and other consumers. One of the document's sections focuses on the complaints system.

- Three of ODR/AS' complaints specialists were newly hired during this reporting period. Their orientation included: intensive review of the office's procedures for processing complaints and inquiries; and on-going trainings on special education law and regulatory matters. Each specialist is assigned to two regions and serves on VDOE's technical assistance team for those particular regions. The specialist also attends regional meetings of the special education directors in the assigned region.
- ODR/AS staff, particularly the complaints staff, work closely with the VDOE parent ombudsman and parent resource specialist (both with the Office of Student Services) to provide information and guidance to the Parent Resource Centers and parents on dispute resolution matters. The ombudsman position began in 2003-04 in response to the Code Commission's 2001 recommendation to VDOE to create such a position to assist parents with special education matters and understanding of dispute resolution options.

PART IV ADMINISTRATIVE SERVICES

- O Annual Plans
- O Inquiries
- O Freedom of Information Act Requests
- O Initiatives

The Office of Dispute Resolution and Administrative Services is also responsible for:

- coordinating the Annual Plan process for the local school divisions and state operated programs. The coordinator of administrative services oversees the annual plan system, and provides technical assistance and trainings regarding its components.
- training initiatives relative to changes in the IDEA '04 statute and its federal implementing regulations, and coordinating VDOE's revision of the Virginia regulations governing special education. The coordinator of administrative services is responsible for this function.
- coordinating the process for developing and posting responses to the Frequently Asked Questions (FAQs), reflecting questions generated by the field. The coordinator of administrative services oversees this operation.
- responding to written and electronic inquiries involving the application of federal and state regulations governing special education. The ODR/AS staff is responsible for responding to inquiries.
- responding to Freedom of Information Act (FOIA) requests relative to the dispute resolution systems. The coordinator of due process services coordinates the responses to FOIA requests.

☐ Annual Plans

Pursuant to the *Code of Virginia*, § 22.1-215, each of the 150 Virginia school divisions and state-operated programs shall submit a plan to VDOE for approval, to provide special education services to identified children with disabilities within its jurisdiction. This plan shall not be submitted more than annually unless changes to the plan are required by federal or state law or regulation. This plan must be received by VDOE, in substantially approvable form, no later than July 1 of each year.

During the 2005-2006 school year, ODR/AS revised this process to comply with the mandates of IDEA '04, and provided trainings to all regions regarding the impact of

those mandates on the Annual Plan process. For example, ODR/AS provided technical assistance to school divisions and state-operated programs, which were each required to modify local policies and procedures in accordance with IDEA '04. In addition, to facilitate efficiency in the grant award process, ODR/AS oversaw the automation of part of the Annual Plan process, ensuring that each school division submitted an electronic application for federal funding via the Online Management of Education Grant Awards (OMEGA) system.

☐ **The IDEA 2004 and the Regulatory Process**

ODR/AS is responsible for coordinating the revision of the “Regulations Governing Special Education for Children with Disabilities in Virginia,” Virginia’s special education regulations. A framework for this process was developed during the 2005-2006 school year, outlining the steps that will be taken once the federal IDEA implementing regulations are issued by the United States Department of Education. Trainings regarding this framework were provided to the State Special Education Advisory Committee and the Special Education Directors’ Council. The training materials are also now available on ODR/AS’ webpage regarding the regulations revision process: <http://www.doe.virginia.gov/VDOE/dueproc/regulationsCWD.html>

ODR/AS is also responsible for coordinating statewide training regarding the federal special education regulations, once issued. During the 2006-2007 school year, ODR/AS will develop technical assistance documents and provide state-wide training to assist parents, school administrators, and other consumers in understanding the new regulatory requirements.

☐ **Frequently Asked Questions**

The revision of the IDEA, and the anticipated issuance of the new federal regulations, resulted in a reprioritizing of this activity. ODR/AS’ goal is to ensure timely posting of FAQs on the division’s website, once the state regulations revision process is complete.

☐ **Inquiries**

Fiscal Year	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006
Number of Requests	136	119	158	146	158	236

Inquiries are requests for interpretation or application of regulations that are not related to a specific complaint, mediation, or due process case.

☐ **Freedom of Information Act Requests**

This is a new data-reporting item for ODR/AS.

Fiscal Year	2003-2004	2004-2005	2005-2006
Number of Requests	34	28	29

APPENDIX

Dispute Resolution Activities by Local Educational Agency
2005 - 2006

cc: VDOE's management team responsible for the State Performance Plan
VDOE staff in the Division of Special Education and Student Services
VDOE Office of Federal Program Monitoring
VDOE hearing officers and mediators
Virginia Supreme Court, Office of the Executive Coordinator
State Special Education Advisory Committee
Code Commission, ALAC
Directors of Special Education

APPENDIX A
Dispute Resolution Activities by LEA
2005-2006

SCHOOL DIVISION	SPED PUPILS AGES 0-22+	TOTAL PUPILS	Due Process Hearings Filed	SPED Complaints Filed	Mediation Cases
Accomack			1		
Albemarle			1		
Alexandria City			1		
Alleghany					
Amelia					
Amherst					
Appomattox					
Arlington			4		
Augusta					
Bath					
Bedford					
Bland					
Botetourt					
Bristol City					
Brunswick					
Buchanan			1		
Buckingham			1		
Buena Vista City					
Campbell			2		
Caroline			1		
Carroll			1		
Charles City County					
Charlotte					
Charlottesville City					
Chesapeake City			2		
Chesterfield			6		
Clarke					
Colonial Beach					
Colonial Heights City					
Covington City					
Craig					

SCHOOL DIVISION	SPED PUPILS AGES 0-22+	TOTAL PUPILS	Due Process Hearings Filed	SPED Complaints Filed	Mediation Cases
Culpeper					
Cumberland			1		
Danville City					
Dickenson					
Dinwiddie					
Essex					
Fairfax			18		
Falls Church City			1		
Fauquier					
Floyd					
Fluvanna			1		
Franklin			1		
Franklin City					
Frederick					
Fredericksburg City					
Galax City					
Giles					
Gloucester					
Goochland					
Grayson					
Greene					
Greensville					
Halifax					
Hampton City			4		
Hanover			3		
Harrisonburg City			1		
Henrico			10		
Henry					
Highland					
Hopewell City			1		
Isle of Wight			2		
King & Queen					
King George					
King William			1		

SCHOOL DIVISION	SPED PUPILS AGES 0-22+	TOTAL PUPILS	Due Process Hearings Filed	SPED Complaints Filed	Mediation Cases
Lancaster					
Lee					
Lexington City					
Loudoun			2		
Louisa					
Lunenburg					
Lynchburg City					
Madison					
Manassas City					
Manassas Park City					
Martinsville City					
Mathews					
Mecklenburg					
Middlesex					
Montgomery			1		
Nelson					
New Kent			2		
Newport News City					
Norfolk City			6		
Northampton					
Northumberland					
Norton City					
Nottoway					
Orange					
Page					
Patrick					
Petersburg City					
Pittsylvania					
Poquoson City					
Portsmouth City			1		
Powhatan			1		
Prince Edward					
Prince George			1		
Prince William			2		

SCHOOL DIVISION	SPED PUPILS AGES 0-22+	TOTAL PUPILS	Due Process Hearings Filed	SPED Complaints Filed	Mediation Cases
Pulaski			1		
Radford City					
Rappahannock					
Richmond County					
Richmond City			2		
Roanoke					
Roanoke City					
Rockbridge					
Rockingham					
Russell					
Salem City					
Scott					
Shenandoah					
Smyth			1		
Southampton					
Spotsylvania					
Stafford			4		
Staunton City					
Suffolk City			1		
Surry					
Sussex					
Tazewell					
Virginia Beach City			3		
Warren					
Washington					
Waynesboro City					
West Point			1		
Westmoreland					
Williamsburg-James City			3		
Winchester City			1		
Wise					
Wythe					
York					

SCHOOL DIVISION	SPED PUPILS AGES 0-22+	TOTAL PUPILS	Due Process Hearings Filed	SPED Complaints Filed	Mediation Cases
Dept. of Education					